IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.9361 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr. V.G.Mujumdar, for the Petitioners.
Mr. A.V. Anturkar with Mrs. Vinita V. Bakre-Shastry for Respondent Nos. 1 to 3.

CORAM : S.A.BOBDE, J.
DATED : 23RD JUNE, 2005

P.C.

. Rule, returnable forthwith. Heard by consent. The Defendant has challenged rejection of his application under Order 7 Rule 11 on the ground that an enquiry into the unsoundness of the Plaintiff No.2 has not been held in accordance with the Order 32 of C.P.C. This submission has been rejected by the trial Court in view of the enquiry held in this regard. The trial Court has observed that both the parties have adduced oral and documentary evidence and after hearing both sides and appreciating the evidence a preliminary issue in respect of the unsoundness of the Plaintiff No.2 has been answered in the affirmative. Hence, there is no merit in the contention. I am, therefore, of the

view that there is no error of law apparent from the order of the trial Court. There is no merit in the contention that the plaint ought to have been rejected under Order 7 Rule 11 of C.P.C. Admittedly there is no evidence that the interest of the Plaintiff No.1 is adverse to that of the Plaintiff No.2.

Petition hereby dismissed.

(S.A. BOBDE, J.)